

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

UNITED STATES OF AMERICA,

*Plaintiff,*

v.

GREG ABBOTT, in his capacity as  
GOVERNOR OF THE STATE OF TEXAS,  
and THE STATE OF TEXAS,

*Defendants.*

Case No. 1:23-cv-00853-DAE

**JOINT ADVISORY**

Pursuant to Judge Howell's June 27, 2024 order, ECF 134, the parties submit this joint advisory and state as follows:

Counsel for the United States and Texas had a telephonic conference on Friday, June 28, 2024 at 4 p.m. ET. Over the next several days, counsel exchanged several communications in an attempt to resolve the issues presented by Texas's motion for leave to seek excess depositions, ECF 124. As a result of that process, the parties have reached an agreement as to Texas's motion for leave to seek excess depositions, ECF 124, obviating the need for the Court to have a hearing on this matter at 2 p.m. CT on July 2, 2024.

The agreement the parties reached is as follows:

(1) Texas agrees to withdraw its individually noticed depositions of Isela Canava and Micky Donaldson, on the understanding that it will depose these individuals when it takes 30(b)(6) depositions of USIBWC and USCBP, respectively;

(2) Texas agrees to withdraw its noticed deposition of Brandy Parker, relying on DOJ's assurances that her contribution to the United States' case is limited to authentication;

(3) Texas may proceed with the deposition of Walker Smith;

(4) Texas may proceed with the deposition of Richard Yarusso, which it will take remotely and limit to a duration of one hour on record. The Parties agree that the United States' agreement to allow the depositions of Mr. Smith and Officer Yarusso to go forward does not waive any objections it may have on relevance or other grounds.

(5) Texas may proceed with the depositions of Francisco Sainz, Neil Lebsock, Justin Peters and Mario Gomez. All of these depositions will be taken remotely by virtual means, and these 4 depositions are subject to a cumulative total time limit of 8 hours on record.

(6) Texas may depose any new individual identified by the July 5, 2024 deadline as a rebuttal expert of the United States. The United States represents that it currently anticipates identifying one such new expert.

(7) Texas will forego taking a second deposition of any already-deposed United States expert that signs a rebuttal expert report.

(8) Including the other depositions Texas has noticed—30(b)(6) depositions of USIBWC, USCBP, USACE and USCG, a fact deposition of Hillary Quam, and a Rule 45 deposition of the City of Eagle Pass—if Texas proceeds with all depositions indicated above, it will take a total of 17 depositions, some of them limited in duration and taken remotely as described above. Texas agrees that it requires no other deposition in this case unless the United States identifies more than the one new rebuttal expert it presently anticipates, in which case the Parties agree Texas has the right to depose any such additional new rebuttal expert.

(9) The date and time of depositions is subject to confirming witness availability, notwithstanding the originally noticed date, and both Parties agree to work cooperatively and in good faith to facilitate taking the above depositions.

(10) Each Party reserves its rights with respect to 30(b)(6) topics.

The Parties further represent to the Court that their terms of agreement as set forth above resolve or narrow certain motions that were referred to Judge Howell, as follows:

- The issues raised by Texas' motion for leave to seek excess deposition, ECF 124, are now fully resolved, and Texas will voluntarily withdraw that motion.
- The issues raised by the United States' motion for a protective order, ECF 126, are now resolved to the extent that said motion sought to impose as mandatory on Texas the presumptive limit of 10 depositions per party. The United States' reply in support of that motion will make clear the United States' withdrawal of that request for relief.
- The issues raised by ECF 126 with respect to certain 30(b)(6) topics are not resolved by the above agreement and remain in dispute at this time. That motion, along with Texas's motion to strike it, ECF 136, remaining pending and are not yet fully briefed as of the time of filing of this Joint Advisory.

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Dated: July 1, 2024

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**CERTIFICATE OF SERVICE**

I certify that on July 1, 2024, a copy of this filing was served on counsel of record through the Court's electronic filing system.

/s/ Bryan J. Harrison

Bryan J. Harrison